

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:91CR83
	)	
v.	)	
	)	
CHARLES TYRONE SMITH,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before the Court on defendant's motion to reduce the term of imprisonment under 18 U.S.C. § 3582(c)(2) and amendment 12 of the U.S.S.G. (Filing No. 444), pursuant to the recent amendments to the United States Sentencing Guidelines with respect to crack cocaine. The Court has received a retroactive sentencing worksheet from the United States Probation Office with respect to the impact of the amendment to the crack cocaine guidelines on defendant's sentence. Because of the amount of crack cocaine for which defendant was held responsible, his guideline calculations are not affected. His base offense level remains 38, his total offense level remains 42, and he has a criminal history category of II, so his sentencing range remains 360 months to life. Under these circumstances, the Court has no authority to modify or reduce defendant's sentence. For these reasons,

IT IS ORDERED that defendant's motion to reduce the term of imprisonment is denied.

DATED this 19th day of February, 2009.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court